

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

-----X  
IN RE ADAMS GOLF, INC. :  
SECURITIES LITIGATION : CONSOLIDATED C.A. NO. 99-371 (KAJ)  
-----X

**PLAINTIFFS' NOTICE OF DEPOSITIONS OF DALLAS RAINWATER  
AND MANNY FERNANDEZ PURSUANT TO SUBPOENAS**

TO: **ALL COUNSEL ON THE ACCOMPANYING SERVICE LIST**

PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, Plaintiffs, by and through their attorneys, Berger & Montague, P.C., and Rosenthal, Monhait & Goddess, P.A., will take the depositions of **Dallas Rainwater and Manny Fernandez**, upon oral examination for the purposes of discovery, before a Notary Public or some other officer authorized to administer oaths, pursuant to Subpoenas in the form attached hereto as Exhibits 1 and 2, respectively.

ROSENTHAL, MONHAIT & GODDESS, P.A.

LEAD COUNSEL:  
BERGER & MONTAGUE, P.C.  
Todd Collins, Esq.  
1622 Locust Street  
Philadelphia, PA. 19103  
(215)875-3000

By: /s/ Carmella P. Keener  
Carmella Keener (DSBA #2810)  
919 Market Street, Suite 1401  
Wilmington, DE 19801  
(302) 656-4433  
[ckeener@rmgglaw.com](mailto:ckeener@rmgglaw.com)  
Liaison Counsel for Plaintiffs

# **EXHIBIT 1**

AO88 (Rev. 11/91) Subpoena in a Civil Case

**United States District Court**  
**NORTHERN DISTRICT OF TEXAS**

IN RE ADAMS GOLF SECURITIES LITIGATION

District of Delaware  
 Civil Action No. 99-371-KAJ  
 (Consolidated)

TO: Dallas Rainwater  
 c/o Akin Gump Strauss Hauer & Feld, LLP  
 300 West Sixth Street, Suite 2100  
 Austin, Texas 78701  
 Tel: (512) 499-6200

[ ] YOU ARE COMMANDED to appear in the United States District Court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

[ X ] YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

Akin Gump Strauss Hauer & Feld, LLP  
 300 West Sixth Street, Suite 2100  
 Austin, Texas 78701  
 Tel: (512) 499-6200

July 6, 2006

10:00 a.m.

[ ] YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

[ ] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6)

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

DATE

*Todd S. Collins*

Attorney for Plaintiff

June 30, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Todd Collins, Esquire  
 Berger & Montague, PC  
 1622 Locust Street  
 Philadelphia, PA, 19103  
 Tel: (215) 875-3000 cell (215) 875-5806

(See Rule 45, Federal Rules of Civil Procedure on Reverse)

AO88 (Rev. 11/91) Subpoena in a Civil Case

**PROOF OF SERVICE**

DATE

PLACE

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

SIGNATURE OF SERVER

1622 Locust Street  
Philadelphia, PA 19103  
ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

**(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

**(B) If a subpoena**

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

1622 LOCUST STREET | PHILADELPHIA, PA 19103-6305 | phone 215/875-3000 | fax 215/875-4604 | www.bergermontague.com

**Berger&Montague,P.C.**  
ATTORNEYS AT LAW

WRITER'S DIRECT DIAL | 215-875-5806  
WRITER'S DIRECT FAX | 215 875-4715  
WRITER'S DIRECT E-MAIL | efox@bm.net

June 30, 2006

Dallas Rainwater  
c/o Akin Gump Strauss Hauer & Feld, LLP  
300 West Sixth Street, Suite 2100  
Austin, Texas 78701

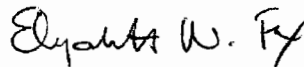
**Re: Adams Golf Securities Litigation**  
**C.A. No. 99-371 KAJ**

Dear Mr. Rainwater

We have subpoenaed you for deposition on July 6, 2006 because Adams Golf listed you as a person who has information about their defenses in this case. We will be happy to adjust the time and place of the deposition for your convenience.

Please give me, or ask your lawyer to contact me, so we can set a time and place for the deposition.

Sincerely,



Elizabeth W. Fox

EWf/dlg

C:\LssWork\407221.wpd

## **EXHIBIT 2**

AQ88 (Rev. 11/91) Subpoena in a Civil Case

**United States District Court**  
**SOUTHERN DISTRICT OF NEW YORK**

IN RE ADAMS GOLF SECURITIES LITIGATION

District of Delaware  
 Civil Action No. 99-371-KAJ  
 (Consolidated)

TO: Manny Fernandez  
 c/o Rick Breslow  
 KPMG, L.L.P.  
 345 Park Avenue  
 New York, NY 10154-0102

(212) 909-5423

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION KPMG, L.L.P. 345 Park Avenue New York, NY 10154-0102 (212) 909-5423	DATE AND TIME  July 5, 2006  10:00 a.m.
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☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6)

ISSUING OFFICER'S NAME AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Todd Collins (ESQ) Attorney for Plaintiff	DATE June 30, 2006
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Todd Collins, Esquire Berger & Montague, PC 1622 Locust Street Philadelphia, PA, 19103 Tel: (215) 875-3000 (215 875 5806)	

(See Rule 46, Federal Rules of Civil Procedure on Reverse)

AO88 (Rev. 11/91) Subpoena in a Civil Case

**PROOF OF SERVICE**

DATE

PLACE

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

1622 Locust Street  
Philadelphia, PA 19103

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D:

**(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to

travel from any such place within the state in which the trial is held, or (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or (iv) subjects a person to undue burden.

**(B) If a subpoena**

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

1622 LOCUST STREET | PHILADELPHIA, PA 19103-6305 | phone 215/875-3000 | fax 215/875-4604 | [www.bergermontague.com](http://www.bergermontague.com)

**Berger&Montague,P.C.**  
ATTORNEYS AT LAW

WRITER'S DIRECT DIAL	215-875-5806
WRITER'S DIRECT FAX	215 875-4715
WRITER'S DIRECT E-MAIL	<a href="mailto:efox@bm.net">efox@bm.net</a>

June 30, 2006

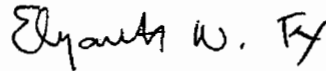
Mr. Rick Breslow  
KPMG, L.L.P.  
345 Park Avenue  
New York, NY 10154-0102

Re: **Adams Golf Securities Litigation**  
**C.A. No. 99-371 KAJ**

Dear Mr. Breslow:

We have subpoenaed Mr. Fernandez for deposition on July 5, 2006 because Adams Golf listed you as a potential witness in their case. We will, of course, be happy to adjust the time and place of the deposition for you and Mr. Fernandez's convenience. Please give me a call to make arrangements.

Sincerely,



Elizabeth W. Fox

EWf/dlg

C:\LssWork\407220.wpd

**CERTIFICATE OF SERVICE**

I, Carmella P. Keener, hereby certify that on this 30<sup>th</sup> day of June, 2006, I electronically filed

**PLAINTIFFS' NOTICE OF DEPOSITIONS OF DALLAS RAINWATER AND MANNY FERNANDEZ PURSUANT TO SUBPOENAS** with the Clerk of Court using CM/ECF, which will send notification of such filing to the following:

Jeffrey L. Moyer, Esquire  
Alyssa M. Schwartz, Esquire  
Richards, Layton & Finger  
One Rodney Square  
Wilmington, DE 19801

John E. James, Esquire  
Brian C. Ralston, Esquire  
Potter, Anderson & Corroon LLP  
1313 N. Market Street  
Wilmington, DE 19801

and a copy has been served by electronic mail upon the following:

Theodore J. McEvoy, Esquire  
Michael J. Chopiga, Esquire  
Elaine Divelbliss, Esquire  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, NY 10017  
Email: [tmcevoy@stblaw.com](mailto:tmcevoy@stblaw.com)  
Email: [mchepiga@stblaw.com](mailto:mchepiga@stblaw.com)  
Email: [edivelbliss@stblaw.com](mailto:edivelbliss@stblaw.com)

Paul R. Bessette, Esquire  
Akin, Gump, Strauss, Hauer & Feld LLP  
Three Embarcadero Center, Suite 2800  
San Francisco, CA 94111-4066  
Email: [pbessette@akingump.com](mailto:pbessette@akingump.com)

Jennifer R. Brannen, Esquire  
Akin, Gump, Strauss, Hauer & Feld, LLP  
300 West 6<sup>th</sup> Street, Suite 2100  
Austin, TX 78701-2916  
Email: [jbrannen@akingump.com](mailto:jbrannen@akingump.com)

s/ Carmella P. Keener  
Carmella P. Keener (DSBA No. 2810)  
ROSENTHAL, MONHAIT & GODDESS, P.A.  
919 N. Market Street, Suite 1401  
Wilmington, DE 19801  
(302) 656-4433  
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